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Letter dated 28 April 2017 from the Secretary-General addressed to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to transmit the fifty-first report on the implementation of the Peace Agreement on Bosnia and Herzegovina, covering the period from 22 October 2016 to 21 April 2017, which I received from the High Representative for Bosnia and Herzegovina (see annex).

I should be grateful if you would bring the report to the attention of the members of the Security Council.

(*Signed*) António **Guterres**

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Annex

Letter dated 25 April 2017 from the High Representative for Bosnia and Herzegovina addressed to the Secretary-General

Pursuant to Security Council resolution 1031 (1995) of 15 December 1995, in which the Council requested the Secretary-General to submit to the Council reports from the High Representative on the implementation of the Agreement, in accordance with annex 10 to the General Framework Agreement for Peace in Bosnia and Herzegovina and the conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I transmit herewith the fifty-first report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina. I would ask that the report be distributed to the members of the Council for their consideration.

This is my seventeenth regular report to the Secretary-General since I assumed the post of High Representative and European Union Special Representative, on 26 March 2009. The present report covers the period from 22 October 2016 to 21 April 2017.

Should you or a member of the Security Council require any information beyond what is provided in the report or have any questions regarding its contents, I would be pleased to provide you with that information.

(*Signed*) Valentin **Inzko**

Fifty-first report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina

Summary

The present report covers the period from 22 October 2016 to 21 April 2017. There have been several challenges during this period, in particular concerning the political situation that has developed in Bosnia and Herzegovina as a result of the attempt to submit a request for revision of the judgment of the International Court of Justice of 26 February 2007 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, and the activities of the Republika Srpska authorities to implement the results of an unconstitutional referendum by adopting the Law on the "Republika Srpska Day" and by observing the "Republika Srpska Day" holiday on 9 January.

The often turbulent political atmosphere notwithstanding, there were also a few positive developments with regard to the country's efforts towards integration with the North Atlantic Treaty Organization (NATO) and the European Union. These included the adoption by the Bosnia and Herzegovina Presidency of the long-outstanding defence review in November, the formal receipt of the European Union questionnaire by the authorities in December and the signing of the Protocol on the adaptation of the Stabilization and Association Agreement with the European Union in December, which put an end to a long process of negotiations between the European Union and Bosnia and Herzegovina on the issue.

As the close of the 10-year window within which Bosnia and Herzegovina could submit a request for revision of the above-mentioned judgment of the International Court of Justice approached in February, tensions arose between the Sarajevo-based parties, who supported the revision, and their Republika Srpska counterparts, who opposed it, including the Republika Srpska "Alliance for Changes" parties, which are part of the State-level coalition. The controversy centred around whether the previous agent, Sakib Softic, retained the mandate to submit such a request, as the Party of Democratic Action (SDA) and Bosniak war victims' associations maintained, or whether further action from the Presidency would be needed to renew his mandate, as the Republika Srpska-based parties asserted. Ultimately, the Court decided on 8 March not to consider the request for revision submitted by Mr. Softic on the grounds that no decision had been taken by the competent authorities on behalf of Bosnia and Herzegovina to request the revision.

These developments led to strong public criticism of the Bosniak member of the Bosnia and Herzegovina Presidency and President of SDA from the ruling coalition in the Republika Srpska and strained relations between SDA and its Serb coalition partners in the State-level Government. The controversy played out within the Bosnia and Herzegovina Presidency, which did not hold any regular sessions between 25 January and 11 April. The Bosnia and Herzegovina Parliamentary Assembly was also briefly affected, including the cancellation of at least one session due to lack of a quorum. The authorities in Serbia also negatively viewed the submitting of a request for revision, but they did not overreact.

Continued developments relating to the referendum held on 25 September in the Republika Srpska in contravention of the decisions of the Constitutional Court of Bosnia and Herzegovina also hindered political progress during the reporting period. In October, the Republika Srpska National Assembly adopted the Law on the Republika Srpska Day, which was presented as the implementing act of the referendum. In December, the Constitutional Court of Bosnia and Herzegovina decided that the Assembly decision of 15 July to hold a referendum was unconstitutional and annulled the referendum results.

On 9 January, despite the decisions of the Constitutional Court of Bosnia and Herzegovina determining the unconstitutionality of observing the date of 9 January as the "Republika Srpska Day" holiday, the Republika Srpska organized "Republika Srpska Day" celebrations in Banja Luka. Events included a parade of members of the police and civil protection services, sports associations and other groups, as well as the participation of some Serb members of the Armed Forces of Bosnia and Herzegovina.

During the reporting period, positive cooperation between Bosnia and Herzegovina and Serbia at the Government level continued, notwithstanding the overall negative political atmosphere within Bosnia and Herzegovina. In January, a delegation of the Council of Ministers of Bosnia and Herzegovina met in Belgrade with a delegation of the Government of Serbia to discuss bilateral cooperation, after which the Prime Minister of Serbia, Aleksandar Vučić, expressed clear support for the territorial integrity and sovereignty of Bosnia and Herzegovina. In March, Mr. Vučić visited Sarajevo to meet with other prime ministers from the region ahead of the annual Western Balkans Summit to be held in July 2017. Positive regional cooperation continued in April, with the meeting in Mostar of political leaders of Bosnia and Herzegovina, Croatia and Serbia.

Even as Bosnia and Herzegovina continues to progress towards Euro-Atlantic integration and regional relations improve, the country's persistent internal political turmoil remains a concern to its immediate neighbours. In an interview on 29 November, the President of Croatia cited "the instability of Bosnia and Herzegovina" as the greatest threat in the surrounding region, indicating that a potential internal conflict in that country could very quickly become a regional conflict.[2]

The rhetoric advocating for the dissolution of Bosnia and Herzegovina emanating from the Republika Srpska authorities, primarily the President of Republika Srpska, has lessened since the imposition of sanctions against him by the United States of America. Nevertheless, statements to that effect have been made during the reporting period,[3] and the possibility of a referendum on independence remains on the party platform of the ruling party in the Republika Srpska. Likewise, Croat leaders continue to advocate for the reorganization of the country along ethnic lines.[4]

Under the authority vested in me under annex 10 of the General Framework Agreement for Peace, I take this opportunity to reiterate that the entities have no right to secede from Bosnia and Herzegovina and that the Framework Agreement guarantees the sovereignty and territorial integrity of Bosnia and Herzegovina and the constitutional position of the entities.

[i] International Court of Justice, judgment of 26 February 2007 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, I.C.J. Reports 2007*, p. 43. In its judgment, the Court found that Serbia was neither directly responsible for nor complicit in the July 1995 Srebrenica genocide. The Court ruled that Serbia had committed a breach of the Convention on the Prevention and Punishment of the Crime of Genocide by failing to prevent the genocide, for not cooperating with the International Tribunal for the Former Yugoslavia in punishing the perpetrators, in particular former Republika Srpska Army General Ratko Mladic, and for violating its obligation to comply with the provisional measures ordered by the Court. As the only available legal remedy, the Statute of the Court envisages that a request for revision of the original judgment may be filed when based on the discovery of some fact of such a nature as to be a decisive factor and which was at the time of the judgment unknown to the party asking for the revision. An application for revision must be made not more than six months from the discovery of the new fact, and no later than 10 years following the date of judgment. The deadline for the submission of a request for revision was on 26 February 2017.

[ii] Jen Judson, "Interview: President of Croatia Kolinda Grabar-Kitarovic", *Defense News*, 29 November 2016.

[iii] "We are not adventurers. But we do not exclude organizing a referendum on the status [of the Republika Srpska] in the event that there is not a satisfactory solution for us." The President of Republika Srpska, Milorad Dodik, reported in *Nezavisne Novine* and other media from *TASS*, 2 March 2017.

[iv] "One of the ways to organize Bosnia and Herzegovina is clearly one in which Croats have their entity. That too can be an element of equality. I am personally working towards the organization of Bosnia and Herzegovina comprised of four territorial units." Croat member of Bosnia and Herzegovina Presidency and President of HDZ Bosnia and Herzegovina, Dragan Covic, N1 TV interview, 14 December 2016.

I. Introduction

1. This is my seventeenth periodic report to the Secretary-General since assuming the post of High Representative for Bosnia and Herzegovina in 2009. It provides a narrative description of progress made towards attaining goals outlined in previous reports, registers factual developments, logs citations relevant to the reporting period and provides my impartial assessment of the implementation of key areas falling under my mandate. I have focused my efforts on addressing those areas, in line with my responsibility to uphold the civilian aspects of the General Framework Agreement for Peace. In that respect, I have consistently encouraged the Bosnia and Herzegovina authorities to make progress on the five objectives and two conditions necessary for the closure of the Office of the High Representative and have worked to preserve measures that have been undertaken previously to implement the Framework Agreement.

2. I continue to direct my energies towards delivering my mandate as defined under annex 10 of the General Framework Agreement for Peace and relevant resolutions of the Security Council. In addition, my Office fully supports the efforts of the European Union and the North Atlantic Treaty Organization (NATO) to assist Bosnia and Herzegovina in moving towards closer integration with those bodies.

II. Political update

A. General political environment

3. Following a period of turbulence, the political situation in Bosnia and Herzegovina has generally stabilized, with some positive developments, especially in terms of regional relations. However, the overall dynamic whereby leading politicians focus excessively on ethnically divisive issues, while demonstrating a lack of urgency in addressing the need for real reforms, cannot be ignored.

4. The situation with regard to the rule of law in the country continues to deteriorate. Corruption is a serious problem, while authorities at all levels regularly disregard or openly reject the decisions of courts. For example, the Republika Srpska authorities continue to flaunt the constitutional order and the rule of law, not just ignoring decisions of the Constitutional Court of Bosnia and Herzegovina on the "Republika Srpska Day" holiday, but also adopting acts that implement the unconstitutional referendum and its annulled results. The Republika Srpska has also disregarded the judgment of the Bosnia and Herzegovina State Court concerning the registration of defence property.

5. On 17 January, the Office of Foreign Assets Control of the United States Department of the Treasury imposed travel and financial sanctions against the President of Republika Srpska, Milorad Dodik (Alliance of Independent Social Democrats (SNSD)), noting in a press release of 17 January that he has played a central "role in defying the Constitutional Court of Bosnia and Herzegovina in violation of the rule of law ... [and] poses a significant risk of actively obstructing [the implementation of the Dayton Accords]."

6. In the Federation, Croat parties continue to advocate for the "federalization" of Bosnia and Herzegovina, which increasingly appears to imply the further ethnic division of the country into three to four "federal units", one of which would have a Croat majority.

7. Equally troubling, the Bosniak member of the Bosnia and Herzegovina Presidency ignored the entreaties of his fellow Presidency members regarding the

role of the Presidency, and proceeded with his attempt to request a revision of the judgment of the International Court of Justice of 26 February 2007 in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro)*, damaging relations within a key Bosnia and Herzegovina institution.

8. Increasingly, the authorities in Bosnia and Herzegovina appear unable to act even in their own self-interest in a win-win situation, such as to address the commitments made under the International Monetary Fund (IMF) Extended Fund Facility arrangement with Bosnia and Herzegovina. The completion of the first review of the performance of Bosnia and Herzegovina under the IMF Extended Fund Facility arrangement, and the second IMF disbursement to the country, are still awaiting the completion of several measures at the State and Federation levels. The failure to meet the IMF deadline for the completion of the first quarterly review, which allows for the release of the second tranche of funds, will additionally increase fiscal pressures on the country.

9. Even gains in regional relations appeared tenuous at times during the reporting period. On 31 October, the Bosnia and Herzegovina State Investigation and Protection Agency arrested 10 former members of the wartime Croat Defence Council on suspicion of war crimes committed against Serbs between April 1992 and July 1993 in the Orasje area. Those who were arrested held dual citizenship of Bosnia and Herzegovina and Croatia, which provoked reactions from neighbouring Croatia. The incident also served to highlight the lingering divisions within Bosnia and Herzegovina, given that the Croat member of the Bosnia and Herzegovina Presidency condemned the arrests, while the Serb and Bosniak members expressed surprise at the reaction from Croatia and insisted that the matter was within the jurisdiction of the judicial institutions of Bosnia and Herzegovina. The indictments against nine individuals for crimes against humanity and war crimes against prisoners of war were ultimately confirmed.

B. Decisions of the High Representative during the reporting period

10. Notwithstanding continued challenges to the rule of law and the General Framework Agreement for Peace during the reporting period, I continued to refrain from using my executive powers in line with the policy of the Steering Board of the Peace Implementation Council to emphasize "local ownership" over international decision-making.

C. Five objectives and two conditions for closure of the Office of the High Representative

Progress on objectives

11. Over the past six months, the Bosnia and Herzegovina authorities made limited progress towards meeting the outstanding requirements of the five objectives and two conditions set by the Steering Board of the Peace Implementation Council as prerequisites for the closure of the Office of the High Representative.

Defence property and State property

12. On 24 November, the Bosnia and Herzegovina Presidency adopted the long-awaited Defence Review, as well as the accompanying decision on the size, structure and location of the Armed Forces of Bosnia and Herzegovina, pursuant to

which the number of prospective defence locations is to be reduced from 63 to 57. The term "prospective defence property" refers to a defined list of immovable assets which are needed by the Armed forces of Bosnia and Herzegovina and should be registered to the Bosnia and Herzegovina State in line with the Agreement on Succession Issues, the Law on Defence and relevant decisions of the Bosnia and Herzegovina Presidency. In addition to being part of the conditions under the NATO membership action plan for the participation of Bosnia and Herzegovina, progress on the issue is one of the outstanding objectives set as a prerequisite for the transition of the Office of the High Representative.

13. Efforts to register prospective property under the ownership of the Bosnia and Herzegovina State continued during the reporting period, but the number of registered defence locations remains at 24, all located on the territory of the Federation. In recent months, the completion of the registration of the remaining properties located in the Federation has slowed considerably, primarily owing to technical and legal (rather than political) problems.

14. In the Republika Srpska, the process of registration of prospective defence property remains blocked due to political obstruction, as entity authorities have rejected several registration requests. The most prominent example is the case of the prospective defence location "Veliki Zep" in the municipality of Han Pijesak, in which the Republika Srpska Administration for Geodetic and Property Affairs and other authorities refuse to implement the final and binding July 2016 verdict of the Bosnia and Herzegovina Court, which determined that the ownership of the property was that of the State of Bosnia and Herzegovina and instructed the geodetic authorities to conduct the respective registration.

15. Instead of abiding by the Court's instruction, the Republika Srpska Administration for Geodetic and Property-related Affairs recently rejected the Bosnia and Herzegovina Public Attorney's request for registration, claiming that, there are no conditions to implement the ruling of the Bosnia and Herzegovina Court in this case. Instead, the State has been directed to initiate a court case before the District Court of the Republika Srpska, a clear attempt by Republika Srpska authorities to bring the case concerning Han Pijesak within the jurisdiction of its own judicial system rather than the State-level judiciary. In the meantime, following the final and binding second-instance verdict of the Bosnia and Herzegovina Court, the Republika Srpska submitted to the same court a request for revision of the verdict. The procedure is ongoing, but it is important to note that the extraordinary legal remedy of revision does not stay the enforcement of the court's final judgment.

16. Progress on the broader issue of how State property assets are to be apportioned between different levels of government remains elusive. Pursuant to the ruling of the Constitutional Court of Bosnia and Herzegovina of 13 July 2012, there is a "true necessity and positive obligation of [Bosnia and Herzegovina] to resolve this issue as soon as possible". More concretely, comprehensive State-level legislation must be adopted where the State of Bosnia and Herzegovina, as the titleholder and owner of State property, would regulate the issue of apportionment and distribution of State property assets by taking into consideration the interests and needs of the entities.

Fiscal sustainability

17. The Office of the High Representative continued to follow, analyse and inform its international partners on developments relating to fiscal sustainability, including developments in the Bosnia and Herzegovina Fiscal Council and the Governing Board of the Indirect Taxation Authority of Bosnia and Herzegovina.

18. The Bosnia and Herzegovina Fiscal Council held two sessions during the reporting period. On 22 November, the Fiscal Council and the IMF mission reached a staff-level agreement on the supplementary letter of intent, including measures required to complete the first quarterly review of the country's progress under the Extended Fund Facility arrangement approved in September. The authorities have failed to complete the agreed measures to date, thereby delaying consideration of the first review by the IMF Executive Board and the second IMF disbursement to Bosnia and Herzegovina. The 14 March Bosnia and Herzegovina Fiscal Council session only addressed technical issues of relevance for its activities.

19. The Governing Board of the Indirect Taxation Authority met seven times during the reporting period, which was more frequently than in the previous period, but with less substantive results. Continued disputes between the finance ministers and experts who sit together on the Board hampered its decision-making. Also evident were disagreements over issues of relevance to the IMF and the European Bank for Reconstruction and Development, as well as continued arguments over outstanding inter-entity debt settlements based on past indirect tax revenue allocations, which cumulatively show a Republika Srpska debt to the Federation of BAM 27.8 million.

Brcko District

20. Following the confirmation of the local elections held in October 2016, parties in the Brcko District quickly negotiated a majority, electing a mayor at the inaugural session of the Brcko District Assembly, on 15 November, and the new Brcko District government was fully operational by 16 January. In view of Bosnia and Herzegovina path towards integration with the European Union, a new Department for European Integration was created.

21. My Office continued to provide expert assistance to the Brcko District authorities, at their request, in preparing by-laws and addressing other issues needed for the implementation of four key pieces of financial legislation adopted in June 2016. The legislation is intended to further integrate the Brcko District with the legal system of Bosnia and Herzegovina, facilitate the implementation of the Bosnia and Herzegovina economic programme negotiated with the IMF and empower the District with instruments for increasing fiscal transparency, fighting the grey economy and generating revenues. My Office also provided support to the Brcko District Finance Directorate in preparing a new law on budget. The Brcko District has not yet adopted its 2017 budget and is functioning under a temporary financing decision.

22. In October, Vitomir Popovic voluntarily withdrew from the post of Arbitrator appointed by Republika Srpska in the Arbitral Tribunal for Dispute over the Inter-Entity Boundary in the Brcko Area and was replaced in November by Sinisa Karan, who previously headed the Republika Srpska Referendum Commission.

23. After the two arbitrators appointed by the Federation and the Republika Srpska failed to agree on the appointment of the replacement for former Presiding Arbitrator Roberts Owen, who passed away in March 2016, the President of the International Court of Justice announced, on 13 January 2017, the appointment of United States Ambassador John Clint Williamson. Mr. Williamson visited Bosnia and Herzegovina for the first time in his new capacity on 7 and 8 March.

24. Although observing 9 January as the "Republika Srpska Day" holiday was determined unconstitutional by virtue of decisions of the Constitutional Court of Bosnia and Herzegovina, the holiday was nonetheless observed in Brcko District, but on 10 January, with a reception hosted by the President of Republika Srpska, Mr. Dodik.

25. Although the decision on *Amendments to the Decision on Protection of Civilian Victims of War* entered into force on 18 June 2015, correcting discriminatory provisions for the victims of rape and sexual abuse in Brcko, the decision has thus far not been implemented.

Entrenching the rule of law

26. My Office continued to provide support to the Bosnia and Herzegovina authorities in the implementation of the Bosnia and Herzegovina Law on Foreigners and Law on Asylum, including assistance in the development of the rulebooks necessary for implementing the legislation.

D. Challenges to the General Framework Agreement for Peace

Challenges to the sovereignty and territorial integrity of Bosnia and Herzegovina

27. During the reporting period, there were numerous statements made which challenged the territorial integrity of Bosnia and Herzegovina, primarily by officials from SNSD, the ruling party in the Republika Srpska. The President of Republika Srpska, Mr. Dodik, who is also the leader of SNSD, continued to be the most frequent and vocal exponent of the dissolution of Bosnia and Herzegovina.[5]

Calls for redrawing of internal boundaries

28. Some Croat leaders continued to call for a new administrative and territorial organization of Bosnia and Herzegovina, which would result in the formation of a "federal unit" with a Croat majority. At the meeting of the Croat People's Assembly Congress held on 28 January, the President of the Main Council of the Assembly, Božo Ljubić, reaffirmed that goal as "the permanent aspiration of Croats in Bosnia and Herzegovina".[6]

29. On 17 November, the Croat People's Assembly organized a commemoration of the twenty-fifth anniversary of the founding of the breakaway Croatian Republic of

[5] "You cannot expect to resolve all national issues of other peoples in the Balkans, and yet to leave the Serb people fragmented in several countries, and to try to unilaterally impose a solution in each of those countries that is in its essence anti-Serb. ... Hypothetically speaking, the territory which would be organized so that Bosniaks have their state in which they are the dominant majority, Serbs have theirs in which they are the dominant majority, Croats theirs, Albanians theirs, seems to have the potential to be the best possible solution for long-term stability." Mr. Dodik, *Sputnik*, 6 March 2017. "If Kosovo becomes a full-fledged member of international organizations like the United Nations, then the Republika Srpska will also take steps to that end." Mr. Dodik, *Izvestija* interview, 6 March 2017. "Bosnia-Herzegovina cannot survive the future with the competences it snatched from Republika Srpska ... I think that the decades to come, not necessarily 2018, are the time when the Serb national issue must be seen integrally." Mr. Dodik, *Nezavisne novine/Sputnik*, 5 March 2017. "In 1992 [Republika Srpska] was formed out of the need of our people to live free, in freedom, to have their state, and that that state in time we dream of joining and become a single part together with mother Serbia." Mr. Dodik, speech on the occasion of 9 January 2017. "The Republika Srpska is determined to assert the original Dayton powers and position. If that is not possible, nobody will keep us in Bosnia and Herzegovina." Mr. Dodik, *Faktor.ba*, 9 January 2017. "This Bosnia is a country which has no chance to succeed ... and I am trying for that to be our dominant process, that we peacefully separate along entity lines. We lay down a state line and in that way we resolve and then we turn towards cooperation." Mr. Dodik, *N1/Beta*, 8 January 2017.

[6] "If Bosnia and Herzegovina wishes to become self-sustainable, then its administrative and territorial reorganization is necessary, so as to include a federal unit with Croat majority. And that remains a permanent aspiration of the Croat people in Bosnia and Herzegovina." Božo Ljubić, *Ljubuški net*, 28 January 2017.

Herzeg-Bosnia (previously the Croatian Community of Herzeg-Bosnia). At the event, various speakers commended the concept of the Croatian Republic of Herzeg-Bosnia, asserted that it was still valid and vowed that there would be no Bosnia and Herzegovina without the Croatian Republic of Herzeg-Bosnia.[7] Some Croat leaders continue efforts to rehabilitate the image of the Croatian Republic of Herzeg-Bosnia, many of whose leaders were indicted and sentenced for war crimes by the International Tribunal for the Former Yugoslavia.

Republika Srpska National Assembly awards war criminals

30. On 24 October, the Republika Srpska National Assembly marked the twenty-fifth anniversary of the withdrawal of Serb delegates from the Parliamentary Assembly of the former Socialist Republic of Bosnia and Herzegovina and the formation of the Assembly of Serb People in Bosnia and Herzegovina. On the occasion, the current Republika Srpska National Assembly leadership gave special awards to all former Speakers of the Republika Srpska National Assembly and members of the first Republika Srpska Presidency, including convicted war criminals Biljana Plavšić and Momčilo Krajišnik, as well as Radovan Karadžić, who was convicted in the first instance for crimes against humanity, genocide and war crimes, and to Nikola Koljević.

31. The event resulted in condemnations by various international organizations and demonstrated the continued reluctance or inability of the Republika Srpska leadership to break with the past.

Implementation of the referendum in Republika Srpska on observing 9 January as the "Republika Srpska Day" holiday

32. As detailed in my special report on a referendum in Republika Srpska against the State Constitutional Court of Bosnia and Herzegovina decisions, which I submitted with my previous regular report (S/2016/911), the Republika Srpska authorities held a referendum on 25 September 2016 concerning the support for observing 9 January as the date of the "Republika Srpska Day" holiday, despite the interim measure of the Constitutional Court of Bosnia and Herzegovina of 17 September suspending the decision of the Republika Srpska National Assembly of 15 July to hold a referendum pending a final decision of the Constitutional Court concerning the aforementioned National Assembly decision.

33. On 25 October, the Republika Srpska National Assembly passed the Law on the Republika Srpska Day, intended to implement the results of the referendum conducted in violation of the decisions of the Constitutional Court of Bosnia and Herzegovina. The law was subject to a vital national interest procedure raised by the Bosniak Caucus in the Republika Srpska Council of Peoples.

34. On 1 December, the Constitutional Court of Bosnia and Herzegovina granted the request of the Bosniak member of the Bosnia and Herzegovina Presidency, Bakir Izetbegović, and others "to resolve the constitutional dispute with the Entity of Republika Srpska" in connection with the Republika Srpska National Assembly decision of 15 July 2016 to conduct the referendum on "Republika Srpska Day" on 25 September 2016. The Court held that the Assembly decision was not in conformity with article I (2) and article VI (5) of the Constitution of Bosnia and Herzegovina, since it defined the referendum as on a question that pertained to a

[7] "Had it not been for the [Croatian Community of Herzeg-Bosnia], we would have met the destiny of Vukovar, and Croats would not exist in Bosnia and Herzegovina. That is why the [Croatian Community of Herzeg-Bosnia] was created." President of HDZ Bosnia and Herzegovina/Croat People's Assembly, Dragan Čović, Mostar, 17 November 2016.

matter already decided by the final and binding decision of the Court, which all public authorities and institutions are obliged to respect.

35. The Court also annulled the referendum results on the grounds that the referendum was held on the basis of a decision on a referendum that the Court had declared incompatible with the Constitution of Bosnia and Herzegovina and contrary to the Court's order set forth in its interim measure of 17 September 2016.

36. On 22 December, the Constitutional Court of the Republika Srpska decided that the vital national interest of the Bosniak people was not violated by the Law on the Republika Srpska Day. The law was published in the *Republika Srpska Official Gazette* on 27 December 2016 and entered into force.

37. On 9 January, despite the decision by the Constitutional Court of Bosnia and Herzegovina that marking the date of 9 January as the "Republika Srpska Day" holiday was unconstitutional, the authorities organized "Republika Srpska Day" celebrations in Banja Luka. Events included a parade of members of the police and civil protection services, sports associations and other groups, as well as the participation of the Third Infantry Regiment of the Armed Forces of Bosnia and Herzegovina, which was present at the request of the Serb member of the Bosnia and Herzegovina Presidency, Mladen Ivanić.

38. By organizing the referendum in direct contravention of the decisions of the Constitutional Court of Bosnia and Herzegovina and by implementing it, the Republika Srpska affirmed its continued policy of disregarding the constitutional order as set forth in annex 4 to the General Framework Agreement for Peace and the authority of the State-level judiciary. By rejecting the final and binding decisions of the Constitutional Court of Bosnia and Herzegovina, and in particular the Court's decision ordering interim measures, the Republika Srpska authorities set a precedent for the misuse of referendums to attempt to justify violating their obligations under the Framework Agreement, irrespective of any eventual decision of the Constitutional Court.

Decision of the Constitutional Court of Bosnia and Herzegovina in the "Ljubić case"

39. On 1 December the Constitutional Court of Bosnia and Herzegovina adopted a decision in the so-called "Ljubić case", which concerns the request of the current President of the Main Council of the Croat People's Assembly, Mr. Ljubić, for a review of the constitutionality of the provisions of the Bosnia and Herzegovina Election Law pertaining to the election of delegates to the Federation House of Peoples. The Constitutional Court established that several challenged provisions of the Bosnia and Herzegovina Election Law are not in conformity with article I (2) of the Constitution of Bosnia and Herzegovina, and ordered the Bosnia and Herzegovina Parliamentary Assembly to harmonize those provisions with the Constitution no later than six months from the date of delivery of its decision. The Court's decision was published on 6 January and sent to the Parliamentary Assembly. Consequently, the deadline to harmonize the unconstitutional provisions is in early July.

40. The decision in the "Ljubić case" includes political elements and considerations and raises several difficult legal questions. Its effects cannot be precisely predicted and depend on what the key political stakeholders and authorities in charge of its implementation agree upon. Based on early reactions to the decision, it is difficult to see how the Federation-based parties might reconcile their conflicting views on its implementation.

41. While the President of SDA, the main Bosniak party, Mr. Izetbegović, expressed the view that minor technical amendments to the Bosnia and Herzegovina Election Law should be adopted to reflect the exact wording of the Constitution of the Federation, the President of the Croatian Democratic Union of Bosnia and Herzegovina (HDZ Bosnia and Herzegovina), the main Croat party, Dragan Čović, stated that provisions of the Law that affect the Federation House of Peoples must be adopted in accordance with the principles set forth in the "Ljubić case" and that the next indirect elections to the Federation House of Peoples, to be held subsequent to the 2018 general elections in Bosnia and Herzegovina, cannot be held without the adoption of appropriate amendments to the Law.

42. The opposing views, particularly between HDZ Bosnia and Herzegovina and SDA officials, centre on whether the elections to be held in 2018 for the Federation House of Peoples can be carried out should the Bosnia and Herzegovina Parliamentary Assembly fail to amend the unconstitutional provisions of the Bosnia and Herzegovina Election Law and should the Constitutional Court of Bosnia and Herzegovina consequently repeal the provisions deemed unconstitutional. The issue is even more important considering that, should elections to the Federation House of Peoples not be held, it would be impossible to elect delegates to the Bosnia and Herzegovina House of Peoples, members of the Federation Presidency, and a new Federation Government subsequent to the elections in 2018.

43. Moreover, looking at the broader potential implications of the decision, with regard to the implementation of the judgments of the European Court of Human Rights in the cases concerning *Sejdić and Finci*, *Zornic*, and *Pilav*, conflicting views among certain political stakeholders emerged as to whether the principle of proportional and legitimate representation developed by the Constitutional Court in the "Ljubić case" would also have an impact on the rules concerning the elections of the members of the Bosnia and Herzegovina Presidency.

44. My Office will continue to closely follow the developments regarding the implementation of the decision in the "Ljubić case".

Issue of foreign fighters

45. According to various Bosnia and Herzegovina authorities, Bosnia and Herzegovina recorded no new departures of its citizens to join Islamic State of Iraq and Levant (ISIL) during the reporting period. The Office of the Prosecutor in Bosnia and Herzegovina continued its activities relating to the investigation and prosecution of citizens of Bosnia and Herzegovina who had left or planned to leave Bosnia and Herzegovina with the aim of joining ISIL, despite having knowledge of the 30 May 2013 press release of the Security Council indicating that the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities had approved the listing of ISIL as a terrorist organization.

III. State-level institutions of Bosnia and Herzegovina

A. Bosnia and Herzegovina Presidency

46. During the reporting period, the Bosnia and Herzegovina Presidency was affected by the political fallout from wider controversies, in particular the attempt to submit a request for revision to the International Court of Justice described above.

47. The revelation that the International Court of Justice had communicated its position to the disputed Bosnia and Herzegovina agent, in May 2016, that a request

for revision of the judgment would require a new formal authorization by the Bosnia and Herzegovina Presidency transformed a controversial issue into a political scandal. The Chair of the Bosnia and Herzegovina Presidency, Mr. Ivanić, and other Serb political leaders insisted that Mr. Izetbegović had acted unilaterally and outside the scope of the Bosnia and Herzegovina institutions and that he should bear the political and possibly legal responsibility. Mr. Ivanić also stated that the Bosnia and Herzegovina Presidency might never again function normally.

48. Several Bosniak political leaders who had supported Mr. Izetbegović's efforts called for his resignation, while the President of the National Democratic Movement, a Republika Srpska political party, Mr. Čović, submitted criminal complaints against Mr. Izetbegović and the disputed Bosnia and Herzegovina agent with the Office of the Prosecutor in Bosnia and Herzegovina. To date, the Office has confirmed that it has only opened a case against the disputed Bosnia and Herzegovina agent.

49. In a welcome development, the Bosnia and Herzegovina Presidency resumed its work on 11 April, discussing several accumulated items and decisions.

50. Among the notable decisions taken by the Bosnia and Herzegovina Presidency during the reporting period was the adoption of the defence review on 24 November. On 20 December, the Presidency submitted the candidacy of Bosnia and Herzegovina for membership on the World Heritage Committee of the United Nations Educational, Scientific and Cultural Organization. In addition, the Presidency adopted a decision extending the mandate of the Armed Forces of Bosnia and Herzegovina in NATO-led peacekeeping operations in Afghanistan, and gave initial support to the possible contribution of the Armed Forces to the Common Security and Defence Policy of the European Union through the engagement of 40 persons in an European Union training mission in the Central African Republic.

51. On 17 November, the Serb member of the Bosnia and Herzegovina Presidency, Mr. Ivanić, assumed the Chair of the Presidency from the Bosniak member, Mr. Izetbegović.

B. Council of Ministers of Bosnia and Herzegovina

52. The Council of Ministers of Bosnia and Herzegovina continued to meet regularly during the reporting period, holding 21 regular sessions and four extraordinary sessions, focusing with some success on issues relating to the path of Bosnia and Herzegovina towards integration with the European Union and addressing technical and economic topics. At the same time, the overall legislative output of the sessions was relatively small.

53. The Council of Ministers adopted only two new laws, the 2017 State Budget and the Law on Insuring Bank Deposits in Bosnia and Herzegovina, and eight sets of amendments to existing legislation, including a set of amendments required by the IMF letter of intent, including amendments to the Law on Excise Tax, the Law on Payments to the Single Account and the Law on the Indirect Taxation System.

54. The Council of Ministers adopted its work plan for 2017 and its action plan for 2017 on 1 February, including nearly 100 development-investment projects relating to European Union accession and fulfilling requirements from the Partnership for Peace and further enhancing regional and international cooperation. The action plan envisages the adoption of more than 40 laws and 650 decisions, reports, strategies and international treaties on the agenda of the Council of Ministers in 2017.

55. The Council of Ministers also established an inter-agency working group to analyse and propose modalities, including new technology in the electoral process

in Bosnia and Herzegovina. At the same time, the inter-agency working group established in 2015 to prepare changes to the Bosnia and Herzegovina Election Law and the Law on Political Party Financing, has continued its work in 2017.

56. The Council of Ministers engaged in regional cooperation, leading a Bosnia and Herzegovina delegation in a visit to Belgrade on 23 January to discuss potential improvements in bilateral relations.

C. Bosnia and Herzegovina Parliamentary Assembly

57. During the reporting period, the work of the Bosnia and Herzegovina Parliamentary Assembly was lackluster, with both houses bogged down by boycotts or threats of boycotts by delegates from Republika Srpska parties and an unstable ruling majority coalition, resulting in lower output. Sessions often became the stage for politicking between various parties.

58. The Bosnia and Herzegovina Parliamentary Assembly was affected by the political crisis that resulted from the request for revision of the judgment of the International Court of Justice of 26 February 2007 in *Bosnia and Herzegovina v. Serbia and Montenegro*. In February and March, sessions of the Bosnia and Herzegovina House of Representatives and the Bosnia and Herzegovina House of Peoples were disrupted by the threat of Republika Srpska delegates that they would not attend, because they disputed the legitimacy of the request for revision. In the session of the Bosnia and Herzegovina House of Representatives on 7 March, even the Bosnia and Herzegovina coalition partner the "Alliance for Changes" refused to participate in voting on any issue. SNSD delegates have repeatedly boycotted sessions of the Bosnia and Herzegovina House of Representatives since December over the issue of the rotation of SDA delegate Sefik Dzaferovic to the House of Representatives Speaker position and their accusations of his involvement in war crimes.

59. The Bosnia and Herzegovina Parliamentary Assembly also has yet to adopt the excise and banking deposit insurance-related legislation required for the completion of the first review under the IMF Extended Fund Facility arrangement. At the end of March, the Council of Ministers of Bosnia and Herzegovina adopted the legislation and sent it to the Bosnia and Herzegovina Parliamentary Assembly in an urgent procedure to meet the 7 April deadline set by IMF. At its session on 5 April, the House of Representatives rejected the urgent procedure, after which the Council of Ministers resubmitted the same proposals, again with a request for considering it under urgent procedure. The House of Peoples adopted the legislation on 7 April, whereas the House of Representatives declined to consider the legislation under urgent procedure at its session on 20 April. Consequently, the laws remain among the outstanding requirements delaying the disbursement of the second tranche of funds under the IMF Extended Fund Facility arrangement.

60. The Bosnia and Herzegovina House of Representatives held only eight regular sessions and one urgent session during the reporting period, and the Bosnia and Herzegovina House of Peoples held only five regular sessions and one urgent session. The parliament adopted three new laws and five changes to existing legislation.

61. The parliament ultimately rejected the proposed removal of Deputy Minister of Defence of Bosnia and Herzegovina, Sead Jusić, over his role in approving the participation of members of the Third Infantry Regiment of the Armed Forces of Bosnia and Herzegovina in the "Republika Srpska Day" holiday events in Banja Luka on 9 January.

IV. Federation of Bosnia and Herzegovina

Federation coalition developments

62. During the reporting period, the Federation Government worked fairly consistently, holding 25 regular sessions and 19 extraordinary sessions. However, frequent disagreements over proposed legislation plagued the ruling SDA-HDZ Bosnia and Herzegovina-Party for a Better Future coalition, disrupting the functioning of parliament. Although both Houses of the Federation Parliament went several months without holding sessions, owing primarily to disputes over proposed amendments to the Law on Lotteries and amendments to restore benefits to some 6,000 Croat war veterans, the Federation Parliament adopted a total of seven new laws and 12 amendments to existing laws during the reporting period.

Constitutional Court of Bosnia and Herzegovina dismisses the challenge of the Republika Srpska National Assembly against the constitutionality of laws adopted in the Federation House of Peoples

63. In October, 30 delegates in the Republika Srpska National Assembly submitted to the Constitutional Court of Bosnia and Herzegovina a request for review of the constitutionality of all laws and by-laws adopted by the Federation Parliament since the 2014 general elections, arguing that the Federation House of Peoples was not fully constituted because only 13 of 17 Serb delegates had been appointed and that the Serb caucus was unable to invoke the mechanism for protection of vital national interest in decision-making. On 19 January, the Constitutional Court dismissed the request, clarifying that, under the Constitution of the Federation and the Election Law, there were no provisions that prevented the Federation House of Peoples from being constituted before all delegates were elected and that the Serb caucus in the Federation House of Peoples had not been prevented from invoking the vital national interest mechanism.

Federation Constitutional Court strikes down amendments to the Law on Civil Service in the Federation

64. On 7 December, the Federation Constitutional Court decided that amendments to the Law on Civil Service in the Federation adopted in October 2015 were not in accordance with the Constitution of the Federation.

Stolac repeat elections

65. On 19 February, the Stolac municipality, where the 2 October 2016 local elections had been suspended owing to several incidents, successfully conducted repeat elections without further incident. The Bosnia and Herzegovina Central Election Commission removed several candidates from the ballot over the earlier incidents, including the only Bosniak mayoral candidate. The Central Election Commission has confirmed the election results, and the Stolac municipal council has been partially constituted. The HDZ Bosnia and Herzegovina candidate won the mayoral race. At the inaugural session of the municipal council, a deputy speaker from HDZ Bosnia and Herzegovina was elected, and negotiations are ongoing about the position of speaker.

Federation House of Representatives adopts resolution against "ethnic federalization"

66. In a 21 March extraordinary session of the Federation House of Representatives, an SDP delegate proposed a resolution condemning calls for the further federalization of Bosnia and Herzegovina. Croat delegates in the Federation

House of Representatives called the SDP-proposed resolution an attack against Croats and left the session, with the remaining 70 delegates unanimously adopting the resolution.

67. Subsequently, Croat political parties called the adopted resolution "anti-Dayton" and "anti-European Union", claiming that it promoted a "unitary and nationalistic Bosniak agenda". In an open letter of 23 March, the Croat People's Assembly warned that if Bosniak delegates did not revoke the resolution, the Assembly would launch unspecified measures. The resolution has not been revoked, and there have been no further actions.

Two schools under one roof in Jajce

68. In March, Central Bosnia Canton authorities moved forward with the foundation of a secondary school in which Bosniak and Croat students, who have heretofore attended classes together, would attend classes separately according to their national (i.e., ethnic) curricula. This marks the first attempt to found such a school, a so-called "two schools under one roof", in the Federation in nearly 15 years. Authorities insist that they founded the school according to requests from the local community, but some Bosniak and Croat students, parents and teachers have protested the decision. On a positive note, it seems that some of the authorities previously advocating for the foundation of a new school may be exploring ways to concentrate their efforts on finding a solution within the current school system.

No agreement to enable local elections in Mostar

69. Regrettably, no political agreement was reached during the reporting period to enact amendments to the Bosnia and Herzegovina Election Law that would enable the holding of local elections in the City of Mostar. In a communiqué of 7 December 2016, the Political Directors of the Steering Board of the Peace Implementation Council again "deplored the utter failure of the political parties over the past six years to meet their obligations to implement the ruling of the [Constitutional Court of Bosnia and Herzegovina] on the electoral system for Mostar" and "called upon all parties, in particular SDA and [HDZ Bosnia and Herzegovina], to reach a compromise to allow voters in Mostar to exercise their basic right to vote".

V. Republika Srpska

70. During the reporting period, the ruling coalition led by SNSD remained functional, with the Republika Srpska Government meeting regularly. The Republika Srpska National Assembly held four regular and four special sessions, and adopted 10 new laws and 19 sets of amendments to existing laws.

71. There are two major trends affecting the political situation Republika Srpska, both of which have perpetuated the ongoing crisis in the country. The first was caused by rising tensions between Sarajevo and Banja Luka over two issues, the referendum on the 9 January "Republika Srpska Day" holiday and the attempted request for revision of the judgment of the International Court of Justice of 26 February 2007 in *Bosnia and Herzegovina v. Serbia and Montenegro*). The second trend has been the constant political power struggle between the ruling coalition in Republika Srpska led by SNSD and its president, President of Republika Srpska Mr. Dodik, and the opposition parties gathered under the "Alliance for Changes".

72. In October, the Republika Srpska National Assembly decided to give special awards to former Assembly Speakers and members of the first Republika Srpska Presidency, including convicted war criminals Momčilo Krajišnik and Biljana Plavšić, as well as Radovan Karadžić, who has been convicted of genocide, crimes against humanity and war crimes at first instance by the International Tribunal for the Former Yugoslavia.

73. Republika Srpska authorities also decided to continue with observing the "Republika Srpska Day" holiday on 9 January, despite the ruling of the Constitutional Court of Bosnia and Herzegovina that the date (not the holiday itself) is unconstitutional. The President of Republika Srpska, Mr. Dodik used the ceremony marking the date as an opportunity to reiterate his position on the dissolution of Bosnia and Herzegovina.

74. Reacting to the attempt to submit a request for revision of the judgment of the International Court of Justice of 26 February 2007 in *Bosnia and Herzegovina v. Serbia and Montenegro*, on 27 February, the Republika Srpska National Assembly adopted a set of wide-ranging conclusions condemning the effort and seeking to block decision-making at the State level except on issues of importance to the Republika Srpska. Notably, the "Alliance for Changes" parties indicated that they would not observe the latter.

75. Several weeks after the municipal elections held in Bosnia and Herzegovina in 2016, the President of Republika Srpska, Mr. Dodik, stated that the Republika Srpska Government would no longer support municipalities run by the Republika Srpska opposition parties. In turn, on 14 November, the "Alliance for Changes" parties condemned Mr. Dodik's statement as illegal and announced they would no longer cooperate with his party, SNSD.

76. On a positive note, on 9 March, the Republika Srpska and Federation Governments held a joint session in Banja Luka to discuss the reform agenda for Bosnia and Herzegovina and the implementation of the IMF Extended Fund Facility arrangement, focusing on implementing measures aimed at reducing the gray economy. Generally speaking, the cooperation between the entity governments, led by Prime Minister of Republika Srpska, Željka Cvijanović, and Prime Minister of the Federation of Bosnia and Herzegovina, Fadil Novalić, could be characterized as positive and pragmatic.

Non-cooperation with the High Representative

77. On 12 January, the Republika Srpska Government decided to cease all communication and contact with my Office over my alleged comparison of the "Republika Srpska Day" holiday and the day of the founding of the Nazi-era Independent State of Croatia. Needless to say, my statement was misinterpreted, and I immediately clarified that I was not drawing a parallel between the Republika Srpska and the Independent State of Croatia.

78. The Republika Srpska Government continues to deny my Office the access to official information and documents required under annex 10 of the General Framework Agreement for Peace. Article IX of annex 10 obliges all authorities in Bosnia and Herzegovina to fully cooperate with the High Representative, as well as with the international organizations and agencies. Repeated calls by the Steering Board of the Peace Implementation Council reminding the Republika Srpska authorities of their obligations in this regard have had no impact. The practice of the Republika Srpska Government's not providing information and documents as requested by the Office of the High Representative dates to 2007 and contradicts frequent claims by Republika Srpska that the entity respects the letter of the Framework Agreement.

VI. Entrenching the rule of law

Draft law on Bosnia and Herzegovina courts

79. The jurisdiction of the Bosnia and Herzegovina State Court is still a major point of contention between the Republika Srpska and other political authorities, preventing the adoption of a new law on Bosnia and Herzegovina courts. A working draft includes provisions for the Bosnia and Herzegovina State to maintain its current criminal jurisdiction over organized crime and corruption, alongside alternate provisions reflecting the view of the Republika Srpska, which seeks limitations on Bosnia and Herzegovina State jurisdiction. The Minister of Justice of Bosnia and Herzegovina attempted to introduce a new draft that sought to substantially diminish State-level criminal jurisdiction. However, within the European Union-led structured dialogue on justice, it is expected that work will continue on the previous draft, which would not diminish State-level jurisdiction. I have made it clear that the State-level jurisdiction must not be diminished, given that it follows the division of competencies between the State of Bosnia and Herzegovina and the entities under the Bosnia and Herzegovina Constitution.

Non-execution of court judgments

80. During the reporting period, one of the most serious violations of the rule of law in Bosnia and Herzegovina to date, which necessitated my previous special report to the Security Council, continued, as the Republika Srpska violated its obligations under the General Framework Agreement for Peace, in particular annex 4 thereto containing the Constitution of Bosnia and Herzegovina. After the Republika Srpska authorities conducted a referendum on 25 September 2016, in violation of two final and binding decisions of the Constitutional Court of Bosnia and Herzegovina, on 25 October, the Republika Srpska National Assembly passed the Law on the "Republika Srpska Day" with the aim of implementing the results of the referendum that had been conducted, in further violation of those decisions.

81. The Office of the Prosecutor in Bosnia and Herzegovina is conducting an investigation into the organization and conduct of the referendum in Republika Srpska, which, under article 239 of the Criminal Code of Bosnia and Herzegovina, Failure to Enforce Decisions of the Constitutional Court of Bosnia and Herzegovina, the Court of Bosnia and Herzegovina, the Human Rights Chamber and the European Court of Human Rights, constitutes a criminal offense, with a sanction of six months' to five years' imprisonment.

82. After previous refusals to submit to questioning in the matter, the President of Republika Srpska, Mr. Dodik appeared before the Office of the Prosecutor in Bosnia and Herzegovina on 30 December to give his statement. The Office has also questioned the Prime Minister of Republika Srpska and the former head of the Republika Srpska Referendum Commission, among others.

83. Another example of the deterioration in the entrenchment of the rule of law that requires my attention is the direct rejection by the Republika Srpska authorities of the applicability of Bosnia and Herzegovina-level judicial decisions in that entity. Thus, the Bosnia and Herzegovina State Court decision on a prospective defence property location in Han Pijesak, located in the Republika Srpska, continues to be ignored by the Republika Srpska authorities.

Entity anti-corruption efforts

84. In the Republika Srpska, organizational changes within the Republika Srpska prosecution introduced by the new Law on Repressing Corruption, Organized and

Most Serious Forms of Economic Crime, were implemented during the reporting period. In the Federation, however, legislation from 2014 on a special prosecutor and court department for fighting corruption and organized crime remains unimplemented.

VII. Public security and law enforcement, including intelligence reform

85. The practice of improper political interference in operational policing has not diminished during the reporting period.

86. The Sarajevo Canton Law on Internal Affairs, adopted in January 2016, remains unimplemented in its most important aspect, which is establishing the operational and financial independence of the police organization, given that the Sarajevo cantonal government has not yet adopted an essential by-law. An initiative by the Sarajevo Cantonal Assembly to introduce major changes to the still to be implemented law would lead to more political control over the police and would disrupt the harmonization of police-related legislation in the Federation.

87. In November, the Sarajevo cantonal government dismissed its Police Commissioner. In March, the Sarajevo Cantonal Independent Board issued the vacancy announcement for a new commissioner. The international community pushed back earlier efforts to reduce the criteria for the new commissioner, thereby resulting in the delay in issuing the vacancy announcement.

88. The appointment of a new police commissioner in Canton 10 has been outstanding since December 2014. The appointment of the Federation Administration Police Director in January 2015 remains unresolved to date due to an ongoing court dispute. After long delays, West Herzegovina Canton appointed a new police commissioner on 1 December. The appointment of the Federation Independent Board remains outstanding since 2015, and the procedure is ongoing in Herzegovina-Neretva Canton.

89. On 8 December 2016, the Federation House of Peoples adopted the Law on Police Officials. On 7 February 2017, the Sarajevo Cantonal Assembly adopted its Law on Police Officials. Both laws are currently in further parliamentary procedure.

90. The Office of the High Representative and its main international community partners continue to monitor changes to police legislation and to encourage harmonization in jurisdictions throughout the country. However, attempts to disharmonize the legislative frameworks are on the rise.

VIII. Economy

91. Available economic indicators for 2016 show a mixed picture. Although foreign trade and industrial production were slightly higher compared with production in 2015, the Directorate for Economic Planning of the Council of Ministers noted a substantial decline in the rate of growth to almost half that of 2015.

92. Although unemployment has dropped by 5.1 per cent, that there are more than half a million persons registered as unemployed as at December 2016 remains of concern. The administrative unemployment rate is 40.9 per cent, while the real unemployment rate is about 25.4 per cent. The share of youth unemployment in the total unemployment figure is estimated at 54.3 per cent.

93. According to preliminary data from the Central Bank of Bosnia and Herzegovina, foreign direct investment in 2016 amounted to BAM 504.4 million, a 5.8 per cent increase compared with 2015. Living standards are poor. With the average December salary of BAM 853 and the average pension of BAM 358, even those with a steady income struggle to make ends meet. In addition, the number of pensioners increased by 1.9 per cent.

94. Available economic indicators also show a decline across several areas and in comparison with the region. The United Nations Conference on Trade and Development *World Investment Report 2016* ranked Bosnia and Herzegovina fourth in foreign direct investment inflows in South-eastern Europe in 2015. The Heritage Foundation 2016 Index of Economic Freedom ranked Bosnia and Herzegovina 109th of 178 countries and thirty-ninth of 43 countries in Europe, with its overall score below global and regional averages. The World Bank report *Doing Business 2017* ranked Bosnia and Herzegovina eighty-first of 190 economies in terms of ease of doing business, the worst of all Balkan countries. The *Human Development Report 2015* of the United Nations Development Programme ranked Bosnia and Herzegovina eighty-fifth of 188 countries in terms of human development. The Transparency International Corruption Perceptions Index ranked Bosnia and Herzegovina eighty-third of 176 countries for 2016, behind neighbouring Croatia, Serbia, and Montenegro. In the *Economic Freedom of the World 2016 Annual Report*, Bosnia and Herzegovina ranked ninety-first of 159 countries and territories, and in the World Economic Forum *Global Competitiveness Report 2016-2017*, Bosnia and Herzegovina ranked 107th of 138 economies, again the lowest ranked country in the region. The *Report* also showed the country's poor capacity to retain talent; in terms of brain drain, Bosnia and Herzegovina ranked 134th of 138 countries.

95. Bosnia and Herzegovina's credit rating remains the same. On 10 March, Standard & Poor's Ratings Services affirmed the credit rating at "B with stable outlook", based on Bosnia and Herzegovina's fiscal performance, robust indirect tax revenues and still comparably low debt burden, among other factors. The constraints stem from the country's political divisions, rising external indebtedness and substantial external financing requirements.

96. The banking sector is assessed as generally stable and liquid and should be further strengthened following the adoption of the full legislative package prepared by the authorities as part of their commitments under the IMF Extended Fund Facility arrangement. The Bosnia and Herzegovina Deposit Insurance Agency, with the efficient handling of deposit refunds following the bankruptcy of two banks based in Republika Srpska (Bobar Banka and Banka Srpske) contributed to the sector's stability.

Fiscal issues

97. Indirect tax revenues continued to grow, which is essential for fiscal stability at all levels of government in Bosnia and Herzegovina. In 2016, the Indirect Taxation Authority of Bosnia and Herzegovina collected a record annual collection of BAM 6.638 billion, 4.48 per cent more than in 2015.

98. During the reporting period, Bosnia and Herzegovina did not benefit from IMF disbursements, given that the responsible authorities failed to complete all measures required for the completion of the first performance review under the IMF Extended Fund Facility arrangement. Following a visit in March 2017, IMF identified the outstanding issues as the adoption of an increase in fuel excises and amendments to the Bosnia and Herzegovina Law on Deposit Insurance Agency by the Bosnia and Herzegovina Parliamentary Assembly; a decision to limit 2017 employment in the

Bosnia and Herzegovina institutions by the Council of Ministers of Bosnia and Herzegovina; the adoption by the Federation Parliament of amendments to the Federation Law on Banking Agency; and a due diligence procedure for BH Telecom and HT Mostar by the Federation Government. The completion of these tasks will pave the way for the consideration of the first review by the IMF Executive Board and, in case of approval, for the second IMF disbursement to Bosnia and Herzegovina.

99. In the absence of IMF assistance, the sustained growth of indirect tax revenues and the continued reliance on domestic borrowing were key to maintaining fiscal stability during the reporting period. However, fiscal challenges are evident and likely to increase in the case of further delays in IMF disbursements and also due to a 31 per cent increase in foreign debt payment obligations (BAM 1.011 billion), among other factors, which has an impact on the budget revenues of the entities and the lower levels of government.

100. The challenges may be somewhat alleviated by the settlement of the Russian Federation "clearing debt" of US$ 125.2 million towards Bosnia and Herzegovina, stemming from the commodity exchange between the former Union of Soviet Socialist Republics and the former Socialist Federal Republic of Yugoslavia. Following its acceptance by the Council of Ministers of Bosnia and Herzegovina on 10 November and the Bosnia and Herzegovina Presidency on 24 November, the Minister of Finance and Treasury of Bosnia and Herzegovina Vjekoslav Bevanda (HDZ Bosnia and Herzegovina) signed the debt settlement agreement with the Deputy Finance Minister of the Russian Federation, Sergei Anatolievich Storchak, on 21 March 2017 in Moscow. The debt will be settled upon ratification of the agreement, and the resulting financial assets will be apportioned to the State (10 per cent), the Federation (58 per cent), the Republika Srpska (29 per cent) and the Brcko District (3 per cent).

101. The adoption process for the budget for 2017 was completed prior to 31 December at the State and entity levels. Brcko District, half of the cantons and the city of Mostar failed to comply with the budget adoption calendar and were forced to operate on temporary financing or, in the case of Mostar, without any financing until the adoption of the budget.

102. On 15 December 2016, the Bosnia and Herzegovina Parliamentary Assembly adopted the Law on the Budget of Bosnia and Herzegovina Institutions and International Obligations of Bosnia and Herzegovina for 2017 in the amount of BAM 1.961 billion, a 14 per cent increase compared with the previous budget. The financing of State institutions has been locked at the same level since 2012, in terms of both the total amount (BAM 950 million) and the amount of indirect tax revenues (BAM 750 million), which is 78.9 per cent of the total State budget revenue. Other revenue sources for State institutions are limited, and they do not benefit from IMF financing. There are concerns that these financial constraints may affect their ability to fully meet their obligations.

103. The Federation Parliament completed the adoption of its budget for 2017 on 29 December 2016. The adopted budget totals BAM 2.747 billion, a 6 per cent increase compared with the previous budget, which includes BAM 562.6 million for foreign debts (39 per cent increase), BAM 530 million for domestic borrowing (33 per cent increase) and BAM 42.7 million for internal debts (74 per cent decrease). The total projected domestic revenue in 2017 are BAM 1.985 billion, and the BAM 762.6 million deficit is to be covered by proceeds from the sale of financial assets (BAM 120 million), short-term borrowing (BAM 360 million) and long-term borrowing (BAM 282.6 million).

104. Fiscal challenges in the Federation may arise in the case of further delays in IMF disbursements, the underperformance of domestic revenue or a lack of interest for government securities. There is also continued concern over the stability of the Federation Pension and Disability Fund, which struggles to secure regular and timely payments of pensions in the Federation. The new Federation Law on Pension and Disability Insurance currently in parliamentary procedure should address this issue by including the Fund in the Federation treasury system. However, judging from experience in the Republika Srpska, although the inclusion of the Pension Fund in the treasury system ensures timely pension payments, it causes delays in other budget payments. A serious budget challenge for the Federation also stems from demands to restore military pension rights to some 11,000 demobilized soldiers of the former army of Bosnia and Herzegovina and the Croat Defence Council.

105. In December 2016, the Federation Parliament adopted amendments to the Law on Budgets in the Federation to provide a legal basis for the continued financing of the city of Mostar, which has no functioning city council to adopt the budget. The amendments empowered the Mayor of Mostar, with the consent of the head of the Finance Department of Mostar, to announce the city budget for 2017 in February.

106. On 24 December, the Republika Srpska National Assembly adopted the Republika Srpska budget for 2017, which totals BAM 3.2 billion, a 2.3 increase compared with the previous year. Budget revenues are set at BAM 2.7 billion, with a deficit of BAM 522 million (6 per cent decrease), to be covered by domestic and foreign borrowing. With similar concerns as the Federation, of particular concern in the Republika Srpska is the accumulated debt of the healthcare sector, which exceeds BAM 1 billion. The Republika Srpska Pension Fund also faces challenges to its sustainability, owing to poor revenue collection and an increasing number of pensioners, among other factors. The inclusion of the Fund in the budget for 2016 resolved the issue of delayed pension payments but led to delays in other Republika Srpska payments.

International obligations and other issues

107. The Energy Community reintroduced sanctions against Bosnia and Herzegovina on 1 April, following the country's failure to follow through on an earlier commitment to support the adoption of a State law addressing persistent breaches of obligations under the Energy Community Treaty. Although the Ministry of Foreign Trade and Economic Relations of Bosnia and Herzegovina, led by Mirko Šarović (SDS), attempted to negotiate an acceptable solution, the entity authorities failed to agree on regulation of the gas sector at the State level.

108. On 16 March, the Republika Srpska Government adopted a conclusion requesting the Ministry of Transport and Communications of Republika Srpska to initiate a review of the agreement between the Federation and the Republika Srpska on the establishment of a joint public railway corporation as part of the transportation corporation, concluded in 1998 under annex 9 of the General Framework Agreement for Peace. The Republika Srpska Government also requested the Ministry to assess the justification for the continued existence of the Bosnia and Herzegovina Public Railway Corporation. The Bosnia and Herzegovina Public Railway Corporation is the only corporation established thus far under annex 9 and is crucial for smooth, safe and regular inter-entity and international railway traffic, including the allocation of rail routes for inter-entity and international traffic in a non-discriminatory manner and the harmonization of signaling, safety, telecommunications and other systems.

IX. Return of refugees and displaced persons

109. Upholding the right of refugees and displaced persons to return to their pre-war homes remains central to the full implementation of annex 7 of the General Framework Agreement for Peace, which requires authorities at all levels to create in their territories the political, economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group.

110. The continued observation by Republika Srpska authorities of the "Republika Srpska Day" holiday on 9 January in contravention of several rulings of the Constitutional Court of Bosnia and Herzegovina does not contribute positively towards social conditions or the harmonious reintegration of refugees and displaced persons in this regard.

111. I also remain concerned by ongoing difficulties faced by returnees in the field of education in several local communities, in particular in the light of the ruling of 25 November of the Banja Luka Basic Court that Bosniak students in Vrbanjci, Kotor Varos, have not been discriminated against, notwithstanding the local primary school's failure to offer the national group of subjects.

112. The period following the elections held in October 2016 in Srebrenica, the site of the 1995 genocide against the Bosniak population of the former enclave protected by the United Nations and now an area of significant return, was marked by initial disputes of the election results. For the first time in the post-war era, a Serb was elected to lead the municipal administration, while Serb parties won a majority of seats in the municipal assembly. That development raised concerns within the Bosniak returnee population and caused divisions among their political representatives. Subsequently, some Bosniak representatives formed a ruling coalition with their Serb counterparts, whereas others joined the opposition. The new Serb mayor has continued to focus on general development issues. Nonetheless, distrust remains between the Bosniak and Serb communities, and it is continuously fuelled by political rhetoric at the higher levels in Bosnia and Herzegovina.

X. Media developments

113. The Bosnia and Herzegovina Public Broadcasting System continued to face challenges in terms of financing and independence from political influence. Authorities have attempted to extend the arrangement of financing public broadcasting through taxes collected by the three main telecom operators, but it is unlikely that that will be realized, bearing in mind the current political situation and the lack of political will to facilitate a solution for supporting the State public broadcaster.

114. Due to the ongoing failure to find a permanent financing solution and the resulting inability to fulfil its regular obligations towards both the domestic authorities in terms of taxes and employer contributions, as well as to the European Broadcasting Union, the State public broadcasting service is in serious financial trouble.

XI. Defence matters

115. In early January, the Armed Forces of Bosnia and Herzegovina were drawn into the political controversy surrounding the marking of 9 January as the "Republika Srpska Day" holiday, despite the Constitutional Court of Bosnia and

Herzegovina ruling that the marking of "Republika Srpska Day" on that date is unconstitutional. The Minister of Defence of Bosnia and Herzegovina informed Republika Srpska authorities that the Armed Forces of Bosnia and Herzegovina would participate in ceremonies on 8 January honouring military personnel and civilians who died during the war, but would not participate in the "Republika Srpska Day" parade on 9 January as had been done previously. Serb politicians, including the Serb Deputy Minister of Defence of Bosnia and Herzegovina, encouraged Serbs serving in the armed forces to make their way to Banja Luka and to participate in the parade regardless of orders to the contrary.

116. On 9 January, elements of the Serb band of the military orchestra of the Armed Forces of Bosnia and Herzegovina and an honour guard of Serb troops from the Third (Republika Srpska) Infantry Regiment rendered honours to the serving Chair of the Bosnia and Herzegovina Presidency, Serb member of the Presidency, Mr. Ivanić, on his direct orders. In addition, all top-ranking Serb officers were present at the event.

117. This circumvention of the chain of command, and the political encouragement to disobey orders, constituted the gravest threat to the integrity of the Armed Forces of Bosnia and Herzegovina since its establishment as a unified force in 2006. An investigation ordered by the Minister of Defence of Bosnia and Herzegovina has placed the blame for the incident on a lack of regulatory clarity regarding the rendering of military honours to members of the Bosnia and Herzegovina Presidency, but has thus far not addressed the behaviour of individual officers who attended the event, which is potentially a matter of concern under annex 1A to the General Framework Agreement for Peace.

118. On a positive note, the Ministry of Defence of Bosnia and Herzegovina is actively planning for the implementation of the defence review adopted in November 2016, in line with the political consensus agreed upon by the Bosnia and Herzegovina Presidency, and is also reinvigorating its legal and technical efforts in relation to the registration of immovable defence property.

XII. European Union military force

119. The European Union-led peacekeeping force in Bosnia and Herzegovina (EUFOR) continues to play a vital role in supporting the efforts of Bosnia and Herzegovina to maintain a safe and secure environment, which in turn assists my Office and other international organizations in fulfilling their respective mandates. The presence of EUFOR on the ground, including its liaison and observation teams, remains an important contributing factor to stability and security.

XIII. Future of the Office of the High Representative

120. The Political Directors of the Steering Board of the Peace Implementation Council met in Sarajevo on 6 and 7 December 2016 to underline the progress in implementing the General Framework Agreement for Peace, as well as their unequivocal commitment to the territorial integrity and sovereignty of Bosnia and Herzegovina. The Steering Board also emphasized the need to complete the five objectives and two conditions necessary for the closure of the Office of the High Representative. The next meeting of the Steering Board is scheduled for 6 and 7 June 2017 in Sarajevo.

121. My Office continues its fiscally responsible approach to budget planning and the results are evident. Since my mandate began in March 2009, the budget of the

Office of the High Representative has been reduced by more than 47 per cent and my staff by over 53 per cent. Given the deep and ongoing nature of the cuts, it is important to highlight that, given the realities of the situation on the ground and as I am entitled to under annex 10 of the General Framework Agreement for Peace, it is essential that I am equipped with the budget and the staff required to carry out my mandate effectively.

XIV. Reporting schedule

122. In keeping with the practice of submitting regular reports for onward transmission to the Security Council, as required under Council resolution 1031 (1995), I herewith present my seventeenth regular report. Should the Secretary-General or any member of the Council require further information at any time, I would be pleased to provide an additional written update. The next regular report to the Secretary-General is scheduled for October 2017.